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**Health Care & Wellness Committee**

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**HB 1085**

**Brief Description:** Concerning body piercing.

**Sponsors:** Representatives Appleton, Green and Dickerson.

**Brief Summary of Bill**

- Requires the Secretary of Health to adopt rules regarding body piercing and body art.
- Makes violation of the rules a misdemeanor and negligence per se.

**Hearing Date:** 1/22/09

**Staff:** Jim Morishima (786-7191)

**Background:**

Sterilization Rules

The Secretary of Health (Secretary) has adopted rules regarding the sterilization of needles and instruments by electrologists and tattoo artists. When adopting the rules, the Secretary was required to consider the universal precautions for infection control, as recommended by the United States Centers for Disease Control, and guidelines for infection control, as recommended by the National Environmental Health Association and the Alliance of Professional Tattooists.

There are no similar rules for body piercing or body art.

Misdemeanors

A misdemeanor is a criminal offense punishable by up to 90 days in jail, a fine of up to \$1,000, or both.

Negligence Per Se

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Generally speaking, in a civil action for negligence, a plaintiff must prove that the defendant breached a duty of care that proximately caused damage to the plaintiff. Under common law, violation of a statute could be considered negligence per se; i.e., the plaintiff does not have to prove that a duty of care was breached. Washington has eliminated the doctrine of negligence per se in most circumstances. It is, however, still negligence per se to violate a statute, ordinance, or administrative rule relating to:

- Electrical fire safety;
- The use of smoke alarms;
- Sterilization of needles and instruments used in tattooing or electrology; or
- Driving under the influence of intoxicating liquor or any drug.

### **Summary of Bill:**

#### Sterilization Rules

The Secretary must adopt by rule requirements for standard universal precautions, as recommended by the United States Centers for Disease Control and prevention, for preventing the spread of disease and the sterilization of needles, single-use disposable sharps, reusable sharps, instruments, and jewelry used by a person who practices body piercing and body art.

"Body piercing" is defined as the process of penetrating the skin or mucous membrane for the purpose of insertion of an object for cosmetic purposes. The term does not include ear piercing or any health-related procedures performed by licensed practitioners.

"Body art" is defined as the practice of physical cosmetic body adornment including branding, scarification, or the intentional production of scars. As with body piercing, body art does not include health-related procedures performed by licensed practitioners.

#### Misdemeanors

Violation of the Secretary's rules by a practitioner of body piercing or body art is a misdemeanor.

#### Negligence Per Se

Violation of the Secretary's rules is negligence per se.

**Appropriation:** None.

**Fiscal Note:** Requested 1/13/09.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.